

### **REMARKS**

This paper is being submitted in response to the Office Action mailed in the application on December 11, 2008. Please consider this Amendment and Remarks as a submission under 37 CFR § 1.114 for entry in conjunction with Applicant's Request for Continued Examination and fee (\$810), being filed concurrently herewith. Claims 15-31 and 33 are pending. Claims 29 through 31 have been allowed. Claims 24-26 have been objected to as dependent on a rejected base claim, but indicated as allowable if rewritten in independent form. Claims 15-23, 27, 28, and 33 are rejected. Claims 15 and 33 have been amended. Applicant respectfully requests reconsideration of claims 15-28 and 33 in view of the preceding amendment and following remarks.

#### **I. AMENDMENT OF SPECIFICATION - PARAGRAPH 35**

Paragraph 35 is amended to correct a labeling error.

#### **II. CLAIM REJECTIONS**

##### **35 USC § 102 (e) Rejections**

Claims 15-21 and 27-28 stand rejected under 35 U.S.C. §102(e) as being anticipated by Kim (U.S. Patent 6,880,372). Applicant respectfully traverses this rejection.

Claim 15 and its dependent claims - Amended Claim 15 recites, in part, "the receptacle being configured and adapted to receive first and second surfaces of the article that are wider than the apparatus, such that the article when received in the receptacle may extend beyond the apparatus in the third direction and may extend beyond the apparatus in a fourth direction opposite the third direction." Referring to the drawing provided by the Examiner on page 9 of the Office

Action, the first surface may be understood to extend in the “upward” direction opposite of arrow 1. The second surface may be understood to extend in the “forward” direction of arrow 2. Kim’s article cannot extend in direction 2 “wider than the apparatus” because the article is contained within the groove. Kim’s article when received in the receptacle cannot extend beyond the apparatus in direction 3 since it is blocked by the structure containing magnet 64. There is no teaching or suggestion that the article when received in the receptacle may extend beyond the apparatus in the third and fourth directions. The failure of the cited reference to disclose all of the elements of claim 15 precludes an anticipation rejection of claim 15. For at least the foregoing reason, Applicant respectfully requests withdrawal of the 35 U.S.C. §102(a) rejection of claim 15 in light of Kim.

Claims 17-26 and 28 depend from claim 15 and also are rejected as being anticipated by Kim. However, if an independent claim is not anticipated by prior art, then its dependent claims, which necessarily include the limitations of the independent claim, are not anticipated either. *See Trintec Indus., Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 1296 (Fed. Cir. 2002). The Kim failure to anticipate claim 15 therefore precludes an anticipation rejection of dependent claims 17-26 and 28. Applicants respectfully request the withdrawal of the 35 U.S.C. § 102(e) rejection of claims 17-26 and 28.

Claim 16 and its dependent claim - Claim 16 recites, in part, “wherein the receptacle is adapted and configured to receive the article such that the size of the surfaces of the article within the receptacle are unrestricted in at least the third direction and a fourth direction opposite the third direction.” On the drawing provided by the Examiner on page 9 of the Office Action, the third direction and fourth direction are denoted 3 and 4. Kim’s article within the receptacle cannot extend in direction 3 since it is blocked by the structure containing magnet 64. There is no

teaching or suggestion that the article within in the receptacle is unrestricted in at least a third and fourth direction. The failure of the cited reference to disclose all of the elements of claim 16 precludes an anticipation rejection of claim 16. For at least the foregoing reason, Applicant respectfully requests withdrawal of the 35 U.S.C. §102(a) rejection of claim 16 in light of Kim.

Claim 27 depends from claim 16 and also is rejected as being anticipated by Kim. However, if an independent claim is not anticipated by prior art, then its dependent claims, which necessarily include the limitations of the independent claim, are not anticipated either. *See Trintec Indus., Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 1296 (Fed. Cir. 2002). The Kim failure to anticipate claim 16 therefore precludes an anticipation rejection of dependent claim 27. Applicants respectfully request the withdrawal of the 35 U.S.C. § 102(e) rejection of claims 16 and 27.

#### 35 USC § 103 (a) Rejections

Claims 22-23 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kim, in view of Stelter et al (U.S. Patent 6,084,498). Applicant respectfully traverses this rejection.

Claims 22-23 are dependent upon claim 15. As discussed above, claim 15 and its dependent claims are not anticipated by Kim. The Action admits that Kim does not disclose that the first or second magnets are comprised of a plurality of magnets, but cites Stelter as disclosing such a plurality of magnets. However, Stelter in combination with Kim does not teach or suggest what amended Claim 15 recites, in part, “the receptacle being configured and adapted to receive first and second surfaces of the article that are wider than the apparatus, such that the article when received in the receptacle may extend beyond the apparatus in the third direction and may extend beyond the apparatus in a fourth direction opposite the third direction.” The failure of the cited references to disclose all of the elements of claim 15 precludes an obviousness rejection of claim

15.

Claim 22-23 depend from independent claim 15 which is not anticipated or obvious in light of the cited references. As dependent claims of a non-obvious independent claim, claims 22-23 are also non-obvious. *See, M.P.E.P.* §2143.03 (*citing, In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) (“If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious.”)). Therefore, claims 22-23 are not obvious. Applicant respectfully requests withdrawal of the 35 U.S.C. §103(a) rejection of claims 22-23.

#### Rejection of Claim 33

The Action does not give a reason for the rejection of claim 33. Claim 33 has been amended to recite, in part “the first and second surfaces of the article when received in the receptacle may extend beyond the apparatus in a third direction that is substantially perpendicular to the first and second directions, and may extend beyond the apparatus in a fourth direction opposite the third direction.”

### **III. ALLOWED CLAIMS**

Applicant thanks Examiner for indicating the allowability of claims 29-31.

### CONCLUSION

Claims 15 – 31 and 33 are believed to be in condition for allowance, and an early notice thereof is respectfully requested. Should the Examiner determine that additional issues exist which might be resolved by a telephone conference, they are respectfully invited to contact the Applicant's undersigned representative.

The Director is hereby authorized to charge any additional fees or underpayments of fees under 37 C.F.R. §§ 1.16 and 1.17, or to credit any overpayments, to Deposit Account Number 50-2616. Applicant is a large entity.

Respectfully Submitted,

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